

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

NATHEN BARTON,

Plaintiff,

v.

AT&T, INC.,

Defendant.

No.

NOTICE OF REMOVAL

TO: Clerk of the Court

TO: Nathen Barton
4618 NW 11th Circle
Vancouver, WA 98607
Tel: 718-710-5784
Email: farmersbranch2014@gmail.com

PLEASE TAKE NOTICE that Defendant AT&T Inc. (“AT&T”) hereby removes this action from the District Court of the State of Washington, the County of Clark to the United States District Court for the Western District of Washington, Tacoma Division, pursuant to 28 U.S.C. §§ 1331, 1367, 1441 and 1446. In support of removal, Defendant states as follows:

1. By complaint dated April 16, 2021, Plaintiff Nathan Barton (“Barton”) purportedly instituted this action against the Defendant. A true and correct copy of the

1 complaint (“Complaint”) and writ of summons (“Summons”) are attached hereto as Exhibit A.
2 The Complaint has been assigned docket number 21-cv-1987-6 in state court.

3 2. Defendant AT&T first received a copy of the Complaint on May 7, 2021. As
4 reflected on the cover sheet to Exhibit A, at that time, the Complaint was served on The
5 Corporation Trust Company (“CT”) in Wilmington, DE, AT&T’s authorized agent for service
6 of process. Because AT&T was served out-of-state, its response to the Complaint is due 60 days
7 from the date of service, or July 6, 2021. RCW 4.28.180.

8 3. No other proceedings have been held in the District Court for Clark County,
9 Washington in this action and the Summons and Complaint constitute all process and pleadings
10 served upon AT&T in this action. No Defendant has filed a responsive pleading to the
11 Complaint.
12

13 4. The Complaint asserts claims against the Defendant for allegedly violating
14 federal law by using automated equipment to place solicitation calls to him without his
15 permission. Complaint at 2. Although not referenced by name in the Complaint, the federal law
16 covering such conduct is the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227,
17 and its implementing regulations. The Complaint also alleges similar claims arising under the
18 Washington State Unfair Business Practices Act, RCW 19.86.010 *et seq.* See Comp. at 2.
19

20 5. Each of the claims arises out of the same basic facts. Barton alleges that he
21 registered his telephone number on the national do-not-call list. Comp. at 1. Despite that, he
22 claims, he received 10 calls during February and March attempting to sell “AT&T/DIRECTV”
23 products. *Id.* at 1-2. Barton alleges that the calls continued even after he asked the caller to stop.
24
25 *Id.*

1 6. Because Barton’s complaint includes a claim against AT&T under the federal
2 TCPA, this action arises under the “laws . . . of the United States” over which this Court has
3 original jurisdiction. 28 U.S.C. § 1331. Accordingly, this action is removable to this Court under
4 28 U.S.C. § 1441. *See Mims v. Arrow Fin. Servs. LLC*, 565 U.S. 368 (2012).

5 7. To the extent that Barton asserts claims under Washington state law, this Court
6 has supplemental jurisdiction over his claims because such claims are so related to Barton’s
7 federal claim that they are part of the same case or controversy under Article III of the United
8 States Constitution. 28 U.S.C. § 1367. Indeed, the state and federal claims both rely on the exact
9 same theory—that AT&T or its affiliates violated telemarketing requirements by making
10 unauthorized and inappropriate calls to Barton.
11

12 8. The United States District Court for the Western District of Washington is a
13 proper venue for removal because it is the federal judicial district in which the complaint alleges
14 the alleged events and/or conduct giving rise to the claims occurred, namely Barton’s receipt
15 of the calls at issue.¹ Additionally, the court where the state action was brought and is pending
16 is located within the United States District Court for the Western District of Washington, and
17 therefore this is the proper district court to which the action should be removed.
18

19 9. AT&T is the only defendant in the case and thus all of the defendants are parties
20 to this Notice of Removal.

21 10. Accordingly, pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is timely
22 and proper because thirty days have not expired since any defendant received the Complaint
23
24

25 ¹ Barton alleges he is a resident of Clark County. Complaint at 1.

1 and because all defendants have joined in the removal.

2 11. Pursuant to 28 U.S.C. § 1446(d), AT&T has this same date given written notice
3 of this filing to Barton and filed a true and correct copy of a Notice of Filing of Notice of
4 Removal (“Notice of Filing”) with the Clerk of the District Court for the State of Washington,
5 Clark County. A copy of such Notice of Filing (without attachments) is attached hereto as
6 Exhibit B.

7 12. By removing this matter to this Court, Defendant does not waive its rights to
8 assert any and all defenses and/or objections in this action, including any right to assert that
9 courts in the State of Washington lack jurisdiction over these claims.
10

11 13. The undersigned is counsel for, and is duly authorized to effect removal on
12 behalf of, Defendant.

13 WHEREFORE, Defendant respectfully requests that this action be removed from the
14 District Court of the State of Washington for the County of Clark and that this Court take
15 jurisdiction over further proceedings.
16

17 DATED this 4th day of June, 2021.

18 CORR CRONIN LLP

19
20 s/ Jeff Bone
21 Jeff Bone, WSBA No. 43965
22 1001 Fourth Avenue, Suite 3900
23 Seattle, Washington 98154
24 (206) 625-8600 Phone
25 (206) 625-0900 Fax
jbone@corrchronin.com

Attorneys for Defendant AT&T Inc.

CERTIFICATE OF SERVICE

The undersigned certifies as follows:

1. I am employed at Corr Cronin LLP, attorneys for Defendant AT&T Inc. herein.

2. On June 4, 2021, I caused a true and correct copy of the foregoing document to be served in the manner indicated below:

Nathen Barton

4618 NW 11th Circle

Vancouver, WA 98607

(718) 710-5784 Phone

Email: farmersbranch2014@gmail.com

Pro Se Plaintiff

☐

Via ECF

☒

Via U.S. Mail

☐

Via Messenger Delivery

☐

Via Overnight Courier

☒

Via electronic mail

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED: June 4, 2021, at Seattle, Washington.

s/ Christy A. Nelson

Christy A. Nelson